

AMENDED IN SENATE JULY 15, 2004

AMENDED IN SENATE JUNE 1, 2004

AMENDED IN SENATE JULY 14, 2003

AMENDED IN ASSEMBLY MAY 6, 2003

AMENDED IN ASSEMBLY APRIL 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 1324**

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**Introduced by Assembly Member Steinberg  
(Coauthor: Assembly Member Koretz)**

February 21, 2003

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An act to add Section 3212.86 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1324, as amended, Steinberg. Workers' compensation: infectious diseases: dependents.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of or in the course of employment.

Existing law also defines "injury" in the case of specified state and local firefighting, law enforcement personnel, and patrol members, to include any blood-borne infectious disease that develops or manifests itself during the period while the member is in the service of the governmental entity.

This bill would provide that if a person who is a specified state or local firefighting, law enforcement, or patrol member sustains an injury that meets the definition of a blood-borne infectious disease, and a dependent *or former dependent* of that person contracts the blood-borne infectious disease from that person, the dependent *or former dependent* may elect to receive compensation under the workers' compensation law, for the duration of the disease, for all medically necessary health care costs associated with the disease.

This bill would prohibit a dependent *or former dependent* from bringing a civil action against the employer for damages if the dependent *or former dependent* elects to receive compensation under the workers' compensation law. The bill would provide that if a dependent *or former dependent* does not elect to receive compensation under the workers' compensation law, the dependent *or former dependent* shall retain the right to all civil remedies otherwise allowed by law, and shall not be subject to a defense that the claim is barred by workers' compensation provisions. *The bill would also define "former dependent" for purposes of these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 3212.86 is added to the Labor Code, to
- 2 read:
- 3 3212.86. (a) If a person covered under Section 3212.8
- 4 sustains an injury that meets the definition of a blood-borne
- 5 infectious disease contained in Section 3212.8, and a dependent *or*
- 6 *former dependent* of that person contracts the blood-borne
- 7 infectious disease from that person, the dependent *or former*
- 8 *dependent* may elect to receive compensation pursuant to this
- 9 division, for the duration of the disease, for all medically necessary
- 10 health care costs associated with the disease.
- 11 (b) (1) If a dependent *or former dependent* elects to receive
- 12 compensation pursuant to this division, as specified in subdivision
- 13 (a), this election shall constitute the sole and exclusive remedy of
- 14 the dependent *or former dependent* against the employer and the
- 15 dependent *or former dependent* may not bring a civil action against
- 16 the employer for damages.



(2) If a dependent *or former dependent* does not elect to receive compensation pursuant to this division, as specified in subdivision (a), the dependent *or former dependent* shall retain the right to pursue all civil remedies otherwise allowed by law, and shall not be subject to a defense that the dependent's *or former dependent's* claim is barred by this division.

(c) *For purposes of this section, "former dependent" means a person who was diagnosed with a blood-borne infectious disease on or after January 1, 1990, which was contracted from a person covered under Section 3212.8 while a dependent of that person but the dependency relationship has terminated. It is the intent of the Legislature that this section applies retroactively.*

CORRECTIONS

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